

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)	
License to Operate Gambling Activities of:)	NO. CR 2011-00968
)	
William R. Wagner)	FINDINGS OF FACT,
Kennewick, Washington,)	CONCLUSIONS OF LAW,
)	AND ORDER OF SUMMARY
)	SUSPENSION OF LICENSE
Licensee.)	

RCW 9.46.070(17) authorizes the Washington State Gambling Commission (Commission) to summarily suspend¹ a license, subject to final action by the Commission. The Director has reviewed this Order of Summary Suspension and has issued it for service.

This order takes effect when served on the William R. Wagner, his representative, or agent. A Commission Special Agent shall seize William R. Wagner's license and the licensee must stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is Director of the Washington State Gambling Commission and issues this order. Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and Title 230 WAC.

II.

The Washington State Gambling Commission issued William R. Wagner license number 68-14907, authorizing Card Room Employee Activity, at Coyote Bob's Casino in Kennewick and Crazy Moose Casino in Pasco. The Commission issued this license, which expires on September 12, 2011, subject to the licensee's compliance with state gambling laws and Commission rules.

III.

After a thorough review of the report by a Commission Special Agent about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

¹ WAC 230-17-165 defines summary suspension as immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

IV.

SUMMARY:

On July 18, 2011, William R. Wagner, licensee, was charged with Assault in the Second Degree with Aggravating Circumstances. Mr. Wagner allegedly assaulted his 14-year-old minor daughter causing her substantial bodily harm. The charges are currently pending.

FACTS:

- 1) On July 26, 2011, the licensee disclosed that he pled not guilty to a charge of Second Degree Assault with Aggravating Circumstances and provided the case number and court dates.
- 2) A Commission Special Agent obtained and reviewed the certified court records related to Mr. Wagner's criminal charges.
- 3) On July 18, 2011, the licensee was charged by Information in Benton County Superior Court with Assault in the Second Degree with Aggravating Circumstances. The Information alleges that on July 12, 2011, Mr. Wagner intentionally assaulted another and "recklessly inflicted substantial bodily harm, to wit: repeatedly her punching in the face with a closed fist resulting in bruising to" a female's "face, eye, ears, arms and legs, a black eye, swollen and bloody lip and lumps on her head..." The Information also states "...the crime was aggravated by the following circumstance: the defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense..."
- 4) On July 18, 2011, a Motion for Arrest/Detention (Probable Cause) was filed in Benton Superior Court and alleges that probable cause exists to arrest Mr. Wagner for the following:
 - a) On or about July 12, 2011, Mr. Wagner's wife called 911 to inquire about types of legal punishment and stated that Mr. Wagner had given her daughter a fat lip.
 - b) Officers went to Mr. Wagner's residence and saw bruising on the daughter's face, eye, ears, arms and legs. There was also swelling under the daughter's eye and several noticeable lumps on her head.
 - c) The daughter told police officers that Mr. Wagner straddled her on the bed in her room and beat her.
 - d) While Mr. Wagner was assaulting her, the daughter yelled for her mother to help her, but her mother failed to render aid.
 - e) The daughter was told by her parents to contact a neighbor to get makeup to cover the bruising before the police responded to the scene.

CONCLUSIONS OF LAW

I.

- 1) **RCW 9.46.070** provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

2) **WAC 230-17-165(2)** provides that the Commission delegates its authority to the Director to summarily suspend any license if the Director determines that a licensee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.

3) **WAC 230-17-165(3)** The Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare: (The following subsections apply.)

(a) Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission;

(f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d)² of this subsection.

On July 18, 2011, the licensee was charged with Assault in the Second Degree with Aggravating Circumstances. Mr. Wagner allegedly assaulted his minor daughter causing her substantial bodily harm. The charges are currently pending.

The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a) and (f) and are a basis for William R. Wagner to immediately stop conducting gambling activities.

4) RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or certified employee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)³ of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

² WAC 230-17-165(3) (d) includes (vii) Any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

³ RCW 9.46.075(4) includes the following offenses: "...or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude."

5) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

6) RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

On July 18, 2011, the licensee was charged with Assault in the Second Degree with Aggravating Circumstances. Mr. Wagner allegedly assaulted his minor daughter causing her substantial bodily harm. The charges are currently pending.

The licensee's pending criminal charge includes an offense involving physical harm to an individual and demonstrates that the licensee poses a threat to the effective regulation of gambling or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

Mr. Wagner has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). As a result, there are grounds to revoke William R. Wagner's license based on RCW 9.46.075(1), (8), and (9), and WAC 230-03-085(1) and (8).

II.

The licensee's actions are an immediate danger to public safety and welfare, and the licensee has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of William R. Wagner's gambling activity is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that William R. Wagner's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

STATEMENT OF RIGHTS

(1) **You may ask for a stay of this Order.** To do so, you must complete and return to the Commission the enclosed Application for Stay Hearing form within fifteen (15) days from the date you receive this Order. If the Commission receives a timely request, we will hold a hearing within seven (7) days as required by WAC 230-17-170(3). The stay hearing will determine if your suspension should continue, or whether the suspension may be modified.

At the stay hearing, you will have to prove by clear and convincing evidence that:

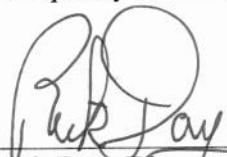
- (a) You will likely win at hearing; and
- (b) If your suspension continues, you will suffer serious injury. Under this section, loss of income from licensed activities is not considered serious injury; and
- (c) Removing the immediate suspension will not hurt others in this case; and
- (d) The threat to the public safety or welfare does not justify continuing the suspension, or that modifying the suspension will adequately protect the public.

(2) **You also have a right to a hearing on the revocation of your license.** To do so, you must complete and return to the Commission the enclosed Application for Hearing form within twenty (20) days from the date you receive this order. If you do NOT request a hearing, we will enter an Order of Default revoking your license under RCW 34.05.440.

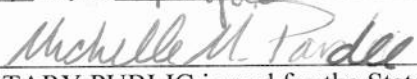
If you have any questions regarding the rights stated above, please contact Paralegal Michelle Pardee, at (360) 486-3465 or 1-800-345-2529, extension 3465.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, under oath, declares that he has read this Order of Summary Suspension of License, knows its contents, and believes it to be true, and affirms that he is the Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the License.


Rick Day, Director

SUBSCRIBED AND SWORN TO before me this
19 day of August, 2011.


NOTARY PUBLIC in and for the State of
Washington, residing at: Lacey
My Commission expires on 6/16/2013

